

REMARKS

This Amendment is submitted in reply to the final Office Action mailed on September 21, 2007. A request for continued examination (RCE) and Terminal Disclaimer are submitted herewith. The Director is authorized to charge \$810.00 for the RCE and \$260.00 Terminal Disclaimer and any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112703-201 on the account statement.

Claims 8-20 are pending in this application. Claims 1-7 and 21-35 were previously withdrawn. In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §102 and 35 U.S.C. §103. In response, Claims 8 and 16 have been amended. The amendments do not add any new matter. In view of the amendments and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §102(e) as being anticipated by either U.S. Patent No. 6,541,048 to Zyck et al. ("*Zyck #1*") or U.S. Patent No. 6,645,535 to Zyck et al. ("*Zyck #2*"). Claims 8-14 and 16-20 are rejected under 35 U.S.C. §102(e) as being anticipated by either U.S. Patent No. 6,627,234 to Johnson et al. ("*Johnson #1*") or U.S. Patent No. 7,163,705 to Johnson et al. ("*Johnson #2*"). Applicants believe these rejections are improper and respectfully traverse them for at least the reasons set forth below.

Applicants have amended independent Claims 8 and 16 to recite, in part, a consumable tableted center that is not a chewing gum. The amendment is supported in the specification, for example, at page 10, lines 10-19. For instance, the specification teaches that the term "consumable center" means a center that can be ingested by the consumer, which unlike chewing gum, is designed to dissolve in the mouth of the consumer and/or be swallowed. In contrast, Applicants respectfully submit that the cited references fail to disclose or suggest every element of Claims 8 and 16 as currently amended.

Zyck #1 fails to disclose or suggest a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Instead, *Zyck #1* is entirely directed to a coated chewing gum. See, for example, *Zyck #1*, Title; Abstract; Claim 1; column 2, lines 18-22; and Examples 1-6 and 23-29. Moreover, *Zyck #1* teaches that the term "chewing gum" includes bubble gum and all other types of chewing gum and that the gum base portion is retained in the mouth throughout the chew. See, *Zyck #1*, column 3, lines 3-5 and column 6, lines 6-7.

Although the Patent Office alleges that *Zyck #1*, in line 3 of column 10, recites the consumable tableted center of the present claims, *Zyck #1* instead discloses that “sugar or sugarless gum center tablets to be coated are placed into a rotating pan to form a moving mass.” See, *Zyck #1*, column 10, lines 2-3.

Similar to *Zyck #1*, *Zyck #2* also fails to disclose or suggest a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Rather, *Zyck #2* is also directed to a coated chewing gum. Moreover, *Zyck #2* states, identically to *Zyck #1* that the term “chewing gum” includes bubble gum and all other types of chewing gum and that the gum base portion is retained in the mouth throughout the chew. See, *Zyck #2*, column 3, lines 23-25 and column 6, lines 38-39. Although the Patent Office alleges that *Zyck #2* recites the consumable tableted center of the present claims, *Zyck #2* instead discloses sugar or sugarless gum center tablets. See, *Zyck #2*, column 10, lines 36-37. In fact, the portions of *Zyck #1* and *Zyck #2* cited by Patent Office are identical.

Similar to the *Zyck* references, *Johnson #1* and *Johnson #2* are entirely directed to a coated chewing gum and therefore fail to disclose or suggest a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Further, like the *Zyck* references above, both *Johnson* references state that the gum base portion of the chewing gum is retained in the mouth throughout the chew. See, *Johnson #1*, column 10, line 63 to column 11, line 2 and *Johnson #2*, column 9, lines 21-27. Though the Patent Office alleges that both *Johnson* references recite the consumable tableted center of instant independent Claims 8 and 16 (See, Office Action, pages 2-3), *Johnson #1* recites a “chewing gum formulation which is then tableted and used as a core for a coated chewing gum.” See, *Johnson #1*, column 10, lines 54-59. Likewise, *Johnson #2* recites sugar or sugarless gum center tablets. *Johnson #2*, column 13, lines 50-52.

In sum, the cited references are entirely directed to chewing gums and fail to disclose or suggest a consumable tableted center that is not a chewing gum in accordance with the present claims. Moreover, all of the Examiner’s citations to the references for the alleged consumable tableted centers explicitly teach a chewing gum or gum base. For at least the reasons discussed above, Applicants respectfully submit that Claims 8 and 16 and Claims 9-15 and 17-20 that depend from Claims 8 and 16 are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the anticipation rejections with respect to Claims 8-20 be reconsidered and the rejections be withdrawn.

In the Office Action, Claims 8-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,056,541 to Stahl (“*Stahl*”). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Applicants respectfully submit that *Stahl* fails to disclose every element of the present claims. For example, *Stahl* fails to teach, suggest, or disclose a consumable tableted center that is not a chewing gum as required, in part, by the present claims. Rather, *Stahl*, as with all the previous cited references, is entirely directed to a coated chewing gum. See, for example, Abstract and Claim 1. Though the Patent Office alleges that *Stahl* teaches a consumable tableted center of the present claims (See, Office Action, page 7), *Stahl*’s reference to “tablets” actually relates to forming a harder and a crunchy coating on a chewing gum. See, *Stahl*, column 1, lines 38-43. For at least the reasons discussed above, *Stahl* fails to teach, suggest, or even disclose every element of Claims 8 and 16 and Claims 9-15 and 17-20 that depend from Claims 8 and 16, and thus, fail to render the claimed subject matter obvious.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claims 8-20 be reconsidered and the rejection be withdrawn.


The Office Action rejected Claims 8-20 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of U.S. Patent Application Nos. 09/990,628, 10/206,492, 11/269,980, 11/273,941 and 11/273,942 and U.S. Patent Nos. 6,355,265, 6,541,048, 6,426,090, 6,322,806, 6,290,985, 6,627,234, 6,465,003, 7,163,705, 6,773,716, 6,645,535, 6,558,692 and 6,355,265. For purposes of advancing the prosecution of this application, Applicants have elected to overcome such rejection through the enclosed Terminal Disclaimer. Such election shall not be deemed an admission as to the propriety or accuracy of the Office Action’s conclusions or rejections.

Accordingly, Applicants respectfully request that the provisional rejections of Claims 8-20 under obviousness-type double patenting be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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Dated: October 25, 2007